

Application Serial No. 09/764,630
Response dated October 9, 2003
Reply to Examiner's Response to Applicant's Appeal Brief dated May 1, 2003

REMARKS

Claims 1-11 are pending. Claims 1-11 have been rejected.

Drawings

In the Office Action dated August 1, 2002, the Examiner objected to the proposed drawing corrections submitted with Applicant's response dated April 29, 2002. Applicant filed new drawings with its Appeal Brief dated February 3, 2003, and notes that the Examiner has entered these drawing changes, as stated in the Examiner's Answer dated May 2, 2003.

Claim Rejections - 35 USC § 102

The Examiner has rejected claims 1-11 of the present application under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,300,031, issued to Neer et al. The Examiner's rationale for rejecting claims 1-11 as anticipated by the Neer et al. '031 patent in the final rejection is as follows: The Examiner states that the Neer et al. '031 patent anticipates claims 1-11 in that that patent "shows a syringe having a barrel, [a] plunger with a knurled coupling element, [a] conical front, syringe mating sections comprising an annular flange fixed to the syringe body, and an anterior cavity in the coupling element". (Office Action, August 1, 2002, p.2). The Examiner also states that the Neer et al. '031 patent shows a "movable face plate movable by a rotatable lever". (Id.). This was the same rejection issued in the first Office Action, dated January 29, 2002, and to which Applicants had responded by arguing that the

coupling element of the Neer et al. '031 patent exhibited discontinuities in its transverse cross-sections and thus failed to anticipate claims 1-11.

In responding to the arguments that Applicants made in response to the January 29, 2002 Office Action, the Examiner stated that the rejection of that Office Action would be maintained because (1) the coupling element of the device of the Neer et al. '031 patent exhibits "no discontinuities in cross-sections taken along the transverse axis", and (2) the extension disclosed in the Neer et al. '031 patent exhibits "no discontinuities in cross-sections taken along the longitudinal axis over a portion of the extension adapted to be gripped by a coupling element". (Id., at p. 3). Applicants respectfully disagree.

In the Appeal Brief dated February 3, 2003, Applicants asserted that any cross-sections described in the application and in the response to the January 29, 2002 Office Action are cross-sections taken transverse to the longitudinal axis of the coupling element. In the Examiner's Answer, the Examiner agreed that "the claims only refer to cross-sections that are transverse, as these are the only cross-sections addressed in the application." However, the Examiner stated (1) that the Applicants were attempting to define claim terms contrary to their ordinary meaning, and that "discontinuity," by its ordinary meaning would connote a break or gap in the pictorial representation of a part, and (2) that nowhere did Applicants provide a definition of "discontinuity" as meaning a change in area of adjacent cross-sections. Applicants respectfully disagree with the

rejection of claims 1-11 under 35 USC § 102 and with the Examiner's statements in support thereof.

First, Applicants respectfully assert that a change of area in adjacent transverse cross-sections would be an ordinary meaning of the phrase "discontinuity in its transverse cross-sections." Applicants note that the American Heritage College Dictionary (3d ed.) (1997), lists one definition of "discontinuity" as being "lack of continuity, logical sequence, or cohesion." Applicants submit that a "lack of . . . logical sequence" does not necessarily require a break or gap, but could encompass a change in area, shape, etc. in cross-sections. Further, regarding "lack of continuity," "continuity" is defined as a "state of being continuous," which, in turn, has one definition as being a "line . . . that extends . . . without break or *irregularity*." (Id., emphasis added). Thus, Applicants respectfully submit that one ordinary meaning of "discontinuity in its transverse cross-sections" is an irregularity or change in logical sequence of adjacent transverse cross-sections, and that such irregularity could be provided by divergent areas or shapes between adjacent transverse cross-sections.

Second, Applicants note that claims 1 and 8, as presently amended, recite a rearward facing extension "wherein no two adjacent transverse cross-sections of said rearwardly facing extension exhibit discontinuity in area when compared one to another along the portion. . . ." Support for these amendments may be found in the ordinary definition of "discontinuity of transverse cross-sections" as discussed above by

Applicants. Regarding this discontinuity in "area", in the claims as presently amended, Applicants note that the coupling element of the Neer et al. reference includes a T- or mushroom-shaped button located at the end of the plunger drive ram (See reference number 96 in Fig. 4). As can be seen, this button includes an extension protruding from the rearward face of the syringe plunger, topped by a cap. Applicants further note that such a coupling element would exhibit discontinuity in area in adjacent cross-sections taken along its longitudinal axis, in that a cross-section taken at the cap of the button would be of a much greater diameter than an adjacent cross-section taken along the extension protruding from the rearward face of the syringe plunger. Thus, Applicants submit that the Neer et al. reference fails to disclose each and every claimed element of the present application in claims 1 and 8, as presently amended. Applicants thus submit that claims 1 and 8 are not anticipated by the Neer et al. reference. Since claims 1 and 8 are not anticipated, Applicants further submit that dependent claims 2-7 and 9-11 are also not anticipated by the Neer et al. reference. Applicants therefore respectfully request a withdrawal of this rejection.

Conclusion:

For the foregoing reasons, it is submitted that all claims are patentable and a Notice of Allowance is respectfully requested.

The Commissioner is hereby authorized to charge deposit account no. 23-3000 in the amount of \$770.00 for the fee set forth in 37 CFR §1.17(e). It is believed

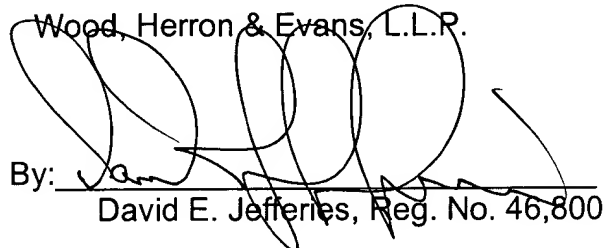
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that no additional fee is due. If, however, any additional fee or surcharges are deemed due, please charge same or credit any overpayment to deposit account no. 23-3000.

The Examiner is invited to contact the undersigned attorney with any questions or remaining issues.

Respectfully submitted,

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